

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR**

ORDER

S.B.CIVIL WRIT PETITION NO.3989/2002.

Paramhansh Ashram Trust, Beawar.

VERSUS

State of Rajasthan and Others.

14.12.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.A.K.Sharma, for the petitioner.

Mr.B.K.Sharma, Deputy Government Advocate.

The petitioner is a Trust at Beawar and with a view to construct the old age home (वृद्धाश्रम) applied for allotment of land. The Government vide Annexure-4 made the allotment vide order dated 05.08.2000 of 1297.23 Sq.Yards of land to the petitioner for a lease of 99 years as per the Rules. Thereafter, some correspondence took place and ultimately vide Annexure-11 dated 11.02.2002 the Government canceled the order of allotment dated 05.08.2000. It is the aforesaid order of the Government dated 11.02.2002 which is the subject matter of challenge before this court in the writ petition.

The submission of the learned counsel for the petitioner is that before the order (Annexure-11) was passed, the petitioner was not afforded any opportunity of hearing or to show cause as to how the allotment should not be canceled.

The submission on the part of the respondents is that the respondents had asked the petitioner to deposit the

amount in pursuance of the allotment vide their letter/notice dated 19.11.2001 but the petitioner failed to deposit the same and consequently, the respondents had no option but to cancel the letter of allotment.

The submission of the learned counsel for the petitioner, on the other hand, is that the petitioner had applied to the Government for depositing the amount by means of installments and the respondents have canceled the allotment vide their order (Annexure-11). It is submitted that the Government did not even consider the request of the petitioner for depositing the amount in installments as the work which the petitioner Trust has undertaken of construction of old age home is a philanthropic work for service to the society.

Learned Deputy Government Advocate appearing on behalf of the respondents, on the other hand, has submitted that the respondents have gone strictly as per the Rules of 1974 and since the Rules do not admit of depositing the amount by installments, the question of allowing the petitioner to deposit the amount in installments did not arise.

I have considered the rival submission.

I would not like to express any opinion so for the submission of the learned counsel for the petitioner of allowing the petitioner to deposit the amount in installments etc. is concerned, suffice it to say that before passing the order (Annexure-11), the respondents ought to have afforded an opportunity of showing cause to the petitioner for the proposed action.

In view of the above, since the petitioner was not afforded any opportunity of showing cause for cancellation of allotment letter, the impugned order (Annexure-11), in my view, deserves to be set aside. No doubt it is true that the petitioner was asked to deposit the amount vide letter dated 19.11.2001, however, a perusal of the same goes to show that the petitioner was never informed that in case he does not deposit the amount, the allotment made in its favour was liable to be canceled. Moreover, the aforesaid fact assumes importance on account of the fact that the petitioner asked for permission to deposit the amount by means of installments which was not specifically declined or even replied.

In view of the above, I am inclined to accept the writ petition and set aside the impugned order (Annexure-11) and direct the respondents to afford an opportunity to the petitioner of showing cause against the proposed action of cancellation of allotment of land vide letter dated 05.08.2000 for the proposed old age home. The petitioner shall approach the State Government who shall give the petitioner an opportunity of hearing and take into consideration the representation given by the petitioner in this behalf and decide the matter in accordance with law.

It may only be added that in case for any reason the respondents are not inclined to accept the prayer of the petitioner the land in dispute already having been set apart by the respondents for public utility purposes it is expected that the land in dispute would be put to the same or similar use for public utility.

Consequently, the writ petition stands disposed of.

The petitioner is directed to approach the State Government on or before 15.01.2007 with certified copy of this order and the State Government is expected to take decision thereon within a period of three months.

The stay application also stands disposed of.

(DALIP SINGH), J.

Solanki DS, Jr.P.A.